

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD G. KRAWCZYK and U.S. POSTAL SERVICE,
POST OFFICE, Farmington, NY

*Docket No. 98-943; Submitted on the Record;
Issued June 21, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained greater than a three percent impairment in each of his upper extremities and a six percent impairment in each of his lower extremities, for which he received a schedule award.

The Board has carefully reviewed the record of evidence and considered the contentions of appellant on appeal and finds that the November 6, 1997 decision of the hearing representative for the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case. The Board, therefore, adopts the findings and conclusions of the hearing representative.¹

The decision of the Office of Workers' Compensation Programs dated November 6, 1997 is hereby affirmed.²

¹ On appeal, appellant asserted that he was entitled to receive compensation for his schedule award and disability compensation concurrently. The hearing representative's November 6, 1997 decision noted that appellant is not entitled to receive compensation concurrently for both his schedule award and compensation for temporary total disability. It is a well-established principle that a claimant is not entitled to dual workers' compensation benefits for the same injury. *Benjamin Swain*, 39 ECAB 448 (1988). A claimant may not receive compensation for temporary total disability or compensation based on loss of wage-earning capacity and a schedule award covering the same period of time; see *Eugenia L. Smith*, 41 ECAB 409, 412 (1990); *Robert T. Leonard*, 34 ECAB 1687, 1690 (1983); *Helen R. Plimton*, 34 ECAB 829, 897-98 (1983). As Larson points out, generally, "the schedule award is added to the allowance for temporary total disability." Larson, *The Law of Workers' Compensation* § 58.15. However, Larson makes clear that both benefits are not to be paid concurrently. In comparing schedule benefits with other benefits provided under workers' compensation laws for an injury, Larson notes: "It goes without saying that, when the statute provides parallel remedies for the same injury, it is not intended that claimant should have both." *Id.* at § 58.20, n. 42. With respect to the Federal Employees' Compensation Act, the Board has held: "An employee cannot [con]currently receive compensation under a schedule award and compensation for disability for work." *Andrew B. Poe*, 27 ECAB 510, 512 (1976).

² On appeal, appellant's counsel seeks approval of an attorney's fee for work performed before the Office.

Dated, Washington, D.C.
June 21, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

However, as this matter has not been adjudicated by the Office, the Board has no jurisdiction over it in the present appeal; *see* 20 C.F.R. § 501.2(c). The Board further notes that record pages 936-38 appear to pertain to a different claimant.